File No. 709
1936

Collection No.

8/7/47 19/12/47

(52)

Mysore Residency

Bangalore

(K)

Pros. Serial Nos. 1–5.

Subject.

Appeal to the Local Govt. against the acquittal of Gulam Dastagir in Sessions case No 8/35 on the file of the Sessions judge ex-officio Bangalore
Petition for remission of sentences rejected

Previous References.

Later References.

R Dis 478-38.
R.F. 363-43.

In view of the important nature of the case, this file may perhaps be retained.

Yes.
19/12/45.

29/12

NOTES AND PRECIS.

P.W.C
Cor.p.1.

Dy.No. 4141 S.N. 1

1 The facts of the case have been fully stated in paragraphs 1 and 2 of the judgment. The acquittal of the accused seems to have proceeded on the ground that there were two not merely discrepent but entirely divergent sets of evidence before the Court- the doctor propounding a theory which was at variance with the facts deposed to by the rest of the Prosecution witnesses. The relatives of the alleged victim swear that the child was ravished on Sunday the 28th July; the doctor is emphatic that the girl could not have got the infection earlier than on Tuesday the 30th July. The trial Court apparently found it had no alternative except to hold that the charge was not proved and to acquit the accused

* pages 2+3 Encl-b S.N.1

2 The principles governing the filing of appeals from judgments of acquittal are well defined. The Local Government would direct an appeal (1) when an acquittal is bad in law, and (2) in respect of pure decisions of fact, when the trial Court has so obstinately blundered and gone wrong as to produce a result mischievous at once to the administration of justice and the interests of the public.(IV All.149

3 The judgment of the Sessions Court does not seem to involve any erroneous interpretation or unwarranted applica-tion of points of law. On the question of fact, it is necessary to examine whether on the evidence before the Court, the finding is absurd or perverse. P.W.3, the child's cousin, P.W.5, her mother, and P.W.6, her brother all swear that it was between 8 and 9 in the morning on Sunday (the 28th of July) that the accused ravished her. It may be noticed that the complaint was not lodged until the following Thursday, that is four days later. The doctor affirms that the offence could not have been committed earlier than 24 to 48 hours prior to his examination, that is before Tuesday. The complaint to the Police (Ex.C), and the First Information Report (Ex.IV) also showed the day of occurence

** p.15
*** p.22
**** p.24

@ p.14

as Tuesday, but it was subsequently altered to Sunday. On this kind of evidence, the finding of the Sessions Court is not merely not perverse, but a different finding would have been perverse. And even if it be wrong, it can hardly be said that it is likely to produce a result mischievous to the administration of justice or to the interests of the public.

4 It may be useful to consider the chances of a reversal of the finding in the appellate Court. In an appeal by Government against an acquittal, the accused starts with a double presumption in his favour. Firstly, there is the rule that it is for the Prosecution to make out their case, and that until they do so beyond all reasonable doubt, the accused must be presumed to be innocent, and secondly that the accused having succeeded in securing an acquittal from a Court, a superior Court will not interfere until the Crown shows conclusively that the inference of guilt is irresistible. The case does not seem to have been so made out as to admit of such an irresistible inference of the accused's guilt. This does not appear, there-fore, to be a fit case for the Local Government to direct the Public Prosecutor to present an appeal to the High Court under Section 417 of the Code of Criminal Procedure.

5 Draft submitted.

ASRao
2.5.1936

(from para 1)

6 The only explanation of this rather surprising case appears to be that the medical evidence has been misunderstood. The witness said:- "The girl must have got the infection some 24 to 48 hours prior to my examination. This is the lowest minimum of time. Absence of inflamation indicates that the infection was given between

24 to 48 hours prior to my examination. If it was prior to 48 hours, there should have been some inflamation -----". Even if a slight injury is caused, it would subside within 48 hours."

7 One feels that what the witness must have meant was that the infection must have been received not less than 24 to 48 hours before his examination, and that he can not have meant to imply that it could not have been received more than 48 hours before the examination. He admits that a slight injury would subside within 48 hours; so the absence of any inflamation, far from being an indication that the injury or infection was very recent and definitely less than 48 hours old, is rather an indication that it was less recent and might have occured more than 48 hours before.

8 If there is any reason to believe that the medical evidence has been misunderstood in this way, there would be justification for filing an appeal; but if the medical evidence has not been misunderstood and its meaning really is that which has been assigned to it by the Sessions Judge, it does not appear that an appeal would be justified.

9 We might consult District Magistrate again on this point and ask him to consult the Public Prosecutor, who presumably conducted the prosecution in the Sessions Court.

10 To my mind, on the face of it, the medical evidence though very confused, does not bear the meaning which has been assigned to it by the Sessions Judge.

T Gne
5.5.36

Regd:

11. Dist. may be consulted as proposed. The medical evidence is very difficult to understand, and in my view requires elucidation. It is possible, however, that the High Court will call for the prosecution and the proceedings if during the re-examination, & should not be given another chance

7/5/36

12. Dist. Registrar please see the foregoing notes and give a further opinion on the case?

8.5.36

Dist. Registrar

C/o

Secretary,

13. I do not think a further discussion with the Public Prosecutor would help matters, as he has already after a lengthy consultation with the Commissioner of Police, agreed that conviction should have followed trial. In any case he is at present on a voyage to and from Australia and will not return until June.

14. The main ground of appeal is not so much that the medical evidence has been misunderstood by the

court but that, though erroneous, it has been wrongly accepted by the court as exonerating the accused. It is of a very confusing character part of the confusion seems to arise from the meaning to be attached to "inflammation". Does P.W.2 mean inflammation due to the assault or inflammation due to the progress of the disease? If the former his evidence is non-sense, because the longer the lapse of time between the assault and the examination, the less would be the likelihood of inflammation. If the latter, it would also seem to be inacceptable because, so far as my information goes, inflammation may occur at varying periods after exposure to the disease, and it is not possible to say categorically, as the witness has indeed said, that if the assault had been more than 48 hours previously there should have been inflammation This is the sense in which the court has accepted the evidence as exonerating the accused. But as there may be more in the evidence than meets the eye of a layman (it is possible the witness may be talking of incubation when he speaks of the "lowest minimum of time") I would suggest a reference to the Residency Surgeon

15.

In any case it seems to me that P.W.2's evidence is valueless regarding the probable date of the assault, but his evidence that he found gonococci is a very strong corroboration of the prosecution case. In short, what should have been one of the most cogent pieces of evidence against the accused, has, mistakenly, become the means of his acquittal.

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE.
14 MAY 1936
Regd. No. 4929.
Secn. No. .....

The Secretary to the Resident.

13/5/36.

481-C-36 Dated 13th May 1936.

P.A. dt.
14/5/

16. Would Residency Surgeon kindly see this case — para 14 of notes in particular — and say whether he can give any information which might tend towards its elucidation ?

14.5.36

Residency Surgeon

G/O No. 4141/4929 dated 14th May 1936.

17 I have read the judgment and the medical evidence in this case, and, in my opinion, the latter is worthless as establishing the date of the alleged offence, but constitutes a strong and valid corroborating evidence for the prosecution case.

18 The medical examination carried out by Prosecution Witness No.2 was quite adequate, but I disagree with the deductions he has drawn from his examinations on two grounds:--

19 (1) Absolute statements in Medicine and Surgery are always dangerous and usually erroneous. It is true that the usual incubation period of gonorrhoea is from 24 to 48 hours; but wide variations are possible. I have known a case of gonorrhoea developing within 12 hours of exposure to infection. I have also known one which did not develop until a week after such exposure. In

my opinion, the correct deduction which the medical witness should have made is that "it is unlikely that the infecting act took place under 24 to 48 hours before I made the examination". If this opinion be accepted, it will be seen that it does not rule out the prosecution case, that the alleged offence took place on the 28th of July; and, in my opinion, the condition found by the Sub Assistant Surgeon, viz., a vulval discharge infected with gonococci, and dirt in the vulva, would tend to corroborate it, in that it is unlikely that knowing such an examination would be carried out the complainants interfered in any way with the child's condition prior to her being examined.

(2) On the question of the presence, or absence of inflammation, my deductions differ from those of the medical witness. Had force been used, it is probable that there would be signs of bruising and inflammation which would probably not have subsided in the 4 or 5 days which elapsed before examination. But the prosecution case states that the accused spat upon the child's private parts and then rubbed his organ against it. The former act was presumably to lubricate the parts, since natural lubrication would not take place in an immature and terrified child. In the presence of this lubrication there is no need for any bruising or excoriation, if, as the prosecution case states, no penetration was attempted and simple friction employed. There is a common superstition in this country that an attack of gonorrhoea may be cured by sexual contact with a virgin; and I have known at first hand, or by hearsay, of many similar cases where children have been assaulted with this object in view.

19

It is true that gonococcal vulvo-vaginitis can be acquired in small girls by other means than sexual contact, for example, by infected fingers. But it can only be acquired from another infected person. Moreover, if the disease had been so acquired it would probably, if of any standing, have been associated with the inflammation of the parts from the prolonged irritation of the discharge. In none of the evidence that I have read is it suggested that there are alternative possibilities of infection, and the common-sense of the case appears to me to be as under:--

20

A sexual offence against the child by the accused is alleged. The accused is demonstrated to be suffering from gonorrhoeal urethritis and the child is discovered to be suffering from gonorrhoeal vulva vaginitis. No other source of infection of the child is suggested, and the period between the alleged offence and the examination of the child is not incompatible with the condition found at the examination. Therefore, the strong probability is that the accused did commit against the child the offence with which he is charged

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE.
19 MAY 1936
Regd. No. 5097
File No.

R. S. 17/v/36.

Reader 19/5

U/o. No.60/M-16/2-B/36 dated 17th May 1936.

To the Secretary to the Hon'ble the Resident in Mysore, Bangalore.

21 Sanction may be accorded to the filing of an appeal ; [and these notes should then be forwarded in original to Dist. Regr. for information :] The material which Residency Surgeon has given us may be useful in preparing or arguing the appeal.

Yrs S.V
ill 19/5

Ebne
29.5.36

22 Draft submitted with reference to para 21.

23 It may be pointed out that it is an arguable point whether the appeal is in time. Article 157* of the Limitation Act prescribes a period of 6 months for the presentation of an appeal against an order of acquittal, the time running from the date of the order appealed [against]. Judgment was pronounced in the case on 18-11-~~1936~~ 1935. But section 12 of that Act** provides as follows:- "In computing the period of limitation prescribed for an appeal---the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the order appealed from---shall be excluded". The rules relating to appeals by private individuals appear to apply to appeals by Government also. In that event, the appeal would be in time. The Public Prosecutor would certainly look into the question, and if this is beyond time, he would ask the High Court for condoning the delay, under [Section 5 of the Limitation Act]. Section

* page 897 of book put up.

** page 114.

Draft
29-5-36

page 41 Section 5 of the Limitation Act.

A.Rao
20.5.1936

(from para 21)

Secy. (hausi)

24 Issue. dirct.

25 There are special administrative orders on the subject of Govt appeals which say that such appeals should not be delayed : They should ordinarily be filed within very much less than the statutory period of six months. We should draw Dist. Mgte's attention to these rules again. We have admittedly taken a month to deal with the case in Revn's office : Govt Dist Mgte's reference was made five months after the date of Sessions Court's judgment.

21.5.36

S. N. (2) issue

26 Draft submitted with reference to para 25 ante

A.S. Rao
24.6.1936

(from para 25)

Secretary.

Tobe
25.6.36

S. N. (3) issue.

27 These notes may now be forwarded in original to the District Magistrate for information, with reference to para 21 ante, (to be kindly returned after done with).

A.S. Rao
25.7.1936

(para 27)

27.7.36.

To

The District Magistrate,
u/o.No. 5091, dated 27th July 1936.

28 Seen and returned with thanks.

31/7/36.

OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE
28 JUL 1936
No. 5091
BANGALORE

GENERAL BRANCH
31 JUL 1936
U.O.No. 5091/C
31.7.36.

OFFICE OF THE DEPUTY COMMISSIONER
BANGALORE
1 AUG. 1936
Regd No. 7556.
File No.

29

Please see para 21 of Notes.

30

The appeal preferred by the Government was allowed, and the respondent was convicted and sentenced to undergo rigorous imprisonment for a period of 5 years. Copy of of the judgment is submitted for perusal.

* ~~(2)~~

ASRao
14.9.1936

(from para 29)

Secretary

Tone
15.9.36.

Dy.No. 9758/5 S.N. 4

Pue
Cor p 35

~~Record~~

31

The provisions regarding suspension, remission, and commutation of sentences are contained in Section 401 of the Code of Criminal Procedure.

Act V of 1898
(not put up)

32

The ~~petitioner~~ petitioner who was tried by the Sessions Judge on a charge of rape was acquitted, and on appeal by Government ~~charge of rape was acquitted, and on appeal by~~ was convicted by the Additional Judge, and sentenced to undergo rigorous imprisonment for a period of five years. The highest Court in the Station having come to the conclusion that the petitioner was guilty of the offence, it is for consideration whether the Local Government should exercise its extra-ordinary powers and grant a remission of the whole or any part of the punishment to which he has been sentenced.

* Judgment - enclosed to P.U.C.

33

The offence was committed on a little girl of tender years, who will suffer from the effects of his fell disease for the rest of her life, not to speak of the stigma and perhaps social ostracism resulting from this tragic incident. The learned Additional Judge has awarded a deterrent

Last page of judgment.

sentence in view of the "peculiarly aggravating circumstances;" the Sessions Judge also was constrained to observe in his order of acquittal that the accused was eluding the prosecution and very probably the hands of justice. Both the Courts, therefore, expressed, the former definitely, and the latter haltingly, that the accused committed the offence. No case appears to have been made out for the Local Government to grant a remission. Draft is for approval.

p. 5 of F. 709-36 (S)

34 Submitted for orders.

AsRao 12.x.1936

(from para 31)

Secretary.

35 I think there are no grounds for remission. The draft may issue

Lowe 14.10.36

Regd.

36 I have given the matter careful consideration, & see no reason to remit the whole or any part of the punishment to which the Petr. has been sentenced.

Lowe 17/10

S. N. c5, issue

A. 22-12-1936

Record

CORRESPONDENCE.

S.N.1 f/5 1 28/4

No. 481-C-36.

OFFICE OF THE DISTRICT MAGISTRATE,
CIVIL AND MILITARY STATION, BANGALORE

Dated 20th April 1936.

FROM

L.J.MacIver, Esquire, I.C.S.,

DISTRICT MAGISTRATE, CIVIL AND MILITARY STATION,

BANGALORE.

OFFICE OF THE RESIDENT IN MYSORE,
BANGALORE.
23 APR. 1936
No. 4141.
To 709/36

The Secretary to the Hon'ble the Resident
in Mysore, BANGALORE.

SIR,

Sessions Case No.8/35 on the file of the Sessions Judge - acquittal of Gulam Dastagir - appeal against - sanction requested.

I forward herewith a copy of judgment passed by the Sessions Judge in S.C.No.8 of 35 on the file of his court, and of letter from the Commissioner of Police, No.172/G dated 6-2-1936. I request that in the circumstances stated therein the Local Government may be moved to sanction the filing of an appeal against the acquittal of Gulam Dastagir under section 417 Cr.P.C. I also enclose a copy of the Government Pleader's opinion in connection with the proposed appeal.

I have the honour to be,
Sir,
Your most obedient servant,

DISTRICT MAGISTRATE.

DESPATCHED
22 APR. 1936

OFFICE OF THE COMMISSIONER OF POLICE
NO. 16021/35
20 DEC. 1935
BANGALORE
C & M STATION

IN THE COURT OF SESSION AT THE CIVIL AND MILITARY STATION OF BANGALORE.

The 18th day of November 1935.

PRESENT:—P. MEDAPA, ESQ., B.A., B.L., Sessions Judge.

Sessions Case No. 8 of 1935.

King Emperor ... ... *Prosecutor.*
by Rao Sahib C. N. Surya Prakas, Public Prosecutor.

Versus

Gulam Dastagir ... ... *Accused.*

bstract of Charge:—Rape punishable under Section 376 of the Indian Penal Code.

Plea:—Not guilty.

Nationality of Assessors:—1 Mussalman.
1 Anglo-Indian and
1 Parsee.

Opinion of Assessors:—(1) Guilty.
(2) Not guilty.
(3) Not guilty.

Finding of the Judge:—Not guilty.

Order:—Acquitted.

JUDGMENT.

The accused has been committed by the District Munsiff and First Class Magistrate, Civil and Military Station, Bangalore, to take his trial before this Court under Section 376 of the Indian Penal Code. The charge against the accused is that, "he on or about the 28th day of July 1935, at Nilasandra, in the Civil and Military Station of Bangalore, committed rape on a female child named Roshan Bee aged about 7 years, and thereby committed an offence punishable under Section 376 of the Indian Penal Code".

2. The story for the prosecution briefly is that P.W. 5, Rahimat Bee, who lives in a house adjoining the house of the accused, has a daughter by name Roshan Bee, aged about 7 years. On the morning of Sunday, the 28th of July last, P.W. 5 and her little daughter were having their breakfast at about 8 or 9 a.m., when her son Abdul Rasheed, P.W. 6, who had got up the roof of the house to fetch his runaway pigeons, came in and told the mother that the accused who was fascinated by the sweetness of Roshan Bee's talk, wanted the child to go over to him, and the mother accordingly asked her to go. Within 5 minutes the child rushed back scared and terrified, and when asked, narrated amidst sobs that she was laid on the ground, her pyjamas were taken off, the accused spat on her private parts and then rubbed his organ against her parts. There was no male member in the house to whom P.W. 5 could look up for help, and being completely prostrate with grief, began to cry. A short while later, P.W. 3, Abdul Rahim, who is her husband's nephew, happened to go over to her house, saw the child and her mother crying and on enquiry was apprised of the fact that the accused had ravished the child. He at once hastened to the place of the accused to demand reparations, but the latter shut himself up in the house ignoring his persistent calls. Then P.W. 3 asked her to send for her brother and lodge a complaint with the Police, as he had to go away to Dhankanikotta on business; but he discovered on his return on the fourth day that the complaint had not yet been lodged; and so the next day he took the

child to the station and got the complaint, Exhibit C lodged. P.W. 7, the Investigating Officer, sent the girl to the hospital with a requisition to the Sub-Assistant Surgeon, Bowring Civil Hospital, Exhibit B (4). The accused was arrested the same day, and he was also sent to the hospital with a requisition, Exhibit A (1). The doctor gave a report, which is marked as Exhibit A in the case, that the accused is suffering from gonorrhoeal urethritis and another report regarding the condition of the girl, Exhibit B (3), that the private parts of Roshan Bee have got infected from purulent discharge of a person suffering from gonorrhoea.

3. The prosecution examined 7 witnesses and marked Exhibits A to J (1); the accused examined 1 witness and got Exhibits I to V marked in his favour.

4 P.W. 1 is the Sub-Assistant Surgeon in the Bowring Civil Hospital, Bangalore, and he states that he examined the accused, sent the white discharge from his urethra to the Pathologist and that the smears contained gonococous, which showed that the accused was suffering from gonorrhoea.

5. P.W. 2 is the Doctor who examined the child on a requisition from the Police, Exhibit B (4), and he speaks to the certificate granted by him wherein he says that the private parts of Roshan Bee have got infected by the purulent discharge of a person suffering from gonorrhoea.

6. P.W. 3, Abdul Rahim, speaks to his having visited the house of Roshan Bee, the alleged victim on the day of the occurrence at about 11 a.m., his seeing the mother and the daughter in tears and the child narrating to him how she had been taken by the accused inside a room and after laying her down on the ground rubbed his penis against her private parts. He states that he asked P.W. 5 to send for her brother and lodge a complaint before the Police, as he had to go away to Dhankanikotta on business, that on his return 4 days later he discovered that the complaint had not been lodged, and that he himself took the child to the station and got the complaint Exhibit C, lodged.

7. P.W. 4 is the Pathologist in the Bowring Hospital who speaks to his having conducted the Gram's stain test and his sending the reports, Exhibits D to H.

8. P.W. 5, Rahimat Bee, the mother of the alleged victim describes in detail how on a Sunday morning about three months ago when Roshan Bee was having her breakfast with her, her son Rasheed came and said that the accused wanted to see the child and how she accordingly sent her girl to the accused's house. She states that Roshan Bee came back within 5 minutes looking terrified and crying, and on enquiry her child described how the accused ravished her. She also states that P.W. 3 happened to go there at about 11 a.m., and corroborates the latter about the instructions he gave regarding the complaint to the Police, the omission to lodge the complaint and the subsequent action taken on his return from Dhankanikotta.

9. P.W. 6 is the brother of Roshan Bee who speaks to the accused asking him to send Roshan Bee to his place on the day of occurrence and his mother sending the girl to the house of the accused.

10. P.W. 7 is the Investigating Officer, who speaks to the Station Writer recording the complaint, Exhibit C, his sending the girl to the hospital with a requisition Exhibit D (4), his receiving the report B (1), his arresting the accused the same day and sending him to the hospital for examination with a requisition Exhibit A (1), and his receiving the report Exhibit A. Two of the assessors were of opinion that the accused was not guilty while the third said that he was guilty.

11. It will be noticed that according to the prosecution the offence was committed on Sunday the 28th of July 1935. The prosecution witnesses P.W. 3, P.W. 5 and P.W. 6 are quite definite in saying that the offence was committed on a Sunday. The Investigating Officer, P.W. 7, is equally definite in stating that P.W. 3 told him that the offence was committed on a Sunday. The complaint to the Police, Exhibit C, and the First Information Report,

Exhibit IV, both set out that the offence was committed on Sunday the 28th July 1935. The charge also stated that the offence was committed on or about the 28th July 1935. The medical evidence on the other hand is equally positive in saying that the offence could not have been committed on Sunday the 28th July 1935, but that it must if at all have been committed either on or after the 30th July 1935. The medical witness states that if the rape had been committed prior to the 30th July as alleged by the prosecution, there should necessarily have been inflammation and consequent injuries on the private parts of the victim. In this case no such injuries or inflammation were seen on the person of the child. The learned Public Prosecutor accepts, and in my opinion correctly, the medical evidence and states that the infection was given and the offence committed not on Sunday the 28th of July but on Tuesday the 30th of July. Both the complaint, Exhibit C, and the First Information Report, Exhibit IV, bear clear marks of alteration, which show that "Tuesday" was altered into 'Sunday', while the copy of the First Information Report in the case Diary showed that the offence was committed on Tuesday the 30th July. The Investigating Officer, P.W. 7, admits that he got "Tuesday" altered into Sunday both in Exhibit C and Exhibit IV, and adds that he got those alterations made because the complainant had previously told him that the offence had been committed on Sunday which happened to be the 28th of July. There are thus two versions before the Court, one sponsored by the doctor and in a way corroborated by the original statement in Exhibit C and Exhibit IV, before the alteration or correction, the other given by the witnesses P.W. 3, P.W. 5, P.W. 6 and P.W. 7. On the evidence on record I have no hesitation in accepting the version of the Public Prosecutor to the effect that the infection was given on 30th July 1935 and not on 28th July 1935 as indicated in the charge. This leads me to the following considerations: (1) whether the charge against the accused to the effect that he *raped the child on the 28th July* could be deemed to have been proved; (2) if not, whether the date of offence in the charge could be altered to the *30th July*; (3) and if so, whether the offence could be deemed to have been proved against the accused. The prosecution case that the offence was committed on Sunday the 28th July though spoken to by P.W. 3, P.W. 5, P.W. 6 and P.W. 7 is admitted by the Public Prosecutor to have been conclusively negatived by the evidence of the doctor whose evidence goes to show that the offence if at all could not have been committed prior to 30th July 1935. The discrepancies in the evidence of P.W. 5 and the delay in lodging the complaint and the other circumstances in the case relied upon by the defence need not therefore be considered at length. I have under these circumstances no hesitation in holding that the charge as brought and framed could not be deemed to have been proved. The Public Prosecutor contended that inasmuch as the charge reads that the offence was committed on or *about* the 28th of July 1935, the Court can at any time before pronouncing judgment alter the words in the charge so as to make it read "on or *about* the 30th July". His contention that the Court has ample powers to alter the charge is no doubt correct; but the alteration of the date from the 28th to 30th is not altering the charge, but framing a new and a fresh charge. The learned Public Prosecutor submitted that the offence is a very heinous one and deserves exemplary punishment and argued that the date in the charge is the result of an error and could therefore be rectified. I fully agree that the offence alleged is heinous and merits very deterrent punishment, but before convicting the accused I have also to see that the provisions of the law are satisfied and that the accused has had a fair trial and that the guilt alleged in the charge is brought home to him by legal and proper evidence. The only section relied on by the prosecution in support of their contention that the date in the charge could be altered is Section 225 of the Criminal Procedure Code which reads: "No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice". I have great doubts about the applicability of this section to the present case. The section seems to refer to clerical errors brought about by inadvertence; but the date in the present charge was not the result of a clerical error or inadvertence. It was based on the evidence let in by the prosecution and was deliberately

mentioned. The prosecution witnesses have even before me stated that the offence was committed on Sunday the 28th of July 1935 and what is more have gone one step further and stated that it was not committed on Tuesday the 30th of July 1935. Even if it is taken for granted that section 225 applied to the present case it has to be seen whether the accused was not misled and prejudiced by the error. The learned Counsel for the defence submitted that if the charge had mentioned that the offence was committed on the 30th he would have been in a position to prove an alibi and establish the innocence of the accused. It will be seen that this submission was not a mere argument, for the evidence of the witness examined for the defence goes to suggest that the date of the alleged offence was deliberately changed in Exhibit C and Exhibit IV, to Sunday the 28th from Tuesday the 30th because the prosecution witnesses knew that the accused was not at home on the 30th and was in a position to prove an alibi if the occurrence was placed on Tuesday the 30th. The accused would thus appear to be clearly handicapped and prejudiced if the date in the charge is allowed to be changed. Then again it has to be seen whether even if the date is allowed to be altered to the 30th, the prosecution has got evidence to sustain that charge. The doctor's evidence at best only goes to show that both the accused and the child have gonorrhoeal infection and that the child got the gonorrhoeal infection on the 30th July. The doctor's evidence does not show and cannot be taken to show that the accused gave the infection to the child or that the infection was given in the manner alleged by the prosecution. There is no other evidence on record which goes to show that the infection was given on the 30th or by the accused on the 30th July. The prosecution will then probably have to fall on the original statements in Exhibits C and IV, but these statements are opposed to the statements now appearing in them and are besides opposed to the sworn testimony of the person who got Exhibits C and IV recorded and to the sworn statements of the other P.Ws. including the Investigating Officer, P.W. 7. Then again the original statements in Exhibits C and IV being extra Judicial statements devoid of the sanctity of the oath, cannot according to law be acted or relied on, particularly in this case, because they are directly opposed to the sworn statements of the very same witnesses. There is thus no legal or proper evidence on record to warrant the conclusion that the accused gave the infection on the 30th July, but there is on the other hand clear evidence on record which goes to show that the accused did not give the infection on the 30th July. Thus in whatever manner the case is considered, the accused, on the evidence on record, eludes the prosecution and very probably the hands of Justice. The defence counsel raised two other points in support of his plea, viz., (1) that the medical evidence does not conclusively prove that the accused was suffering from gonorrhoea and cannot therefore be relied on, (2) that the medical evidence to the effect that the accused was suffering from gonorrhoea should be shut out because the accused's consent was not taken before his examination by the doctor. These points need not, on account of the conclusion already arrived at, be considered at great length. The defence contention that the tests conducted by the Expert were not conclusive and that 'grams stain' though used as a differential stain is subject to error and that a further stain such as the jensen stain should have been used in identifying gonococous, though in a way supported by the opinion of David Lees in his books on "Diagnosis and treatment of venereal diseases", is negatived by the evidence of the Expert examined by the prosecution. Besides David Lees himself states that staphylococci, pneumococci, streptococci and meningococci which like gonococci give a 'gram negative' are very rarely found in urinary tracts. I am therefore inclined to negative the first contention of the defence. The second point raised by the defence counsel seems to be supported by the decision in A.I.R. 1931-Cal., 601. It is, however, unnecessary to go further into this point, for even if the evidence of the doctor is not excluded I am compelled for the reasons already stated to acquit the accused. The accused is accordingly acquitted.

Pronounced in open Court, this 18th day of November 1935.

P. MEDAPA,
Sessions Judge.

LIST OF WITNESSES EXAMINED.

For the prosecution.

1. Dr. Jayaram.
2. Dr. N. Krishnaswamy.
3. Abdul Rahim.
4. Dr. L. R. Sharma.
5. Rahimat Bee.
6. Abdul Rasheed.
7. T. Govindarajulu.

For the defence.

1. Shaik Mahboob.

LIST OF EXHIBITS FILED.

For the prosecution.

Exhibits.	
A.	Certificate given by P.W. 1 for examination of the accused.
A (1).	Requisition.
B (1), (2), (3).	Certificates granted by P.W. 2.
B (4)	Requisition.
B (5).	Questions.
C.	Complaint to the Police lodged by P.W. 3.
D and E.	Reports of Dr. Sharma.
F, G and H.	Pathologist's reports.
J.	Examination of accused before the lower Court.
J (1).	Statement of accused before the lower Court.

For the defence.

I.	Portion of deposition of P.W. 5 in the lower Court.
II.	Certified copy of statement of P.W. 5 before the Police.
III.	Certified copy of statement of P.W. 6 before the Police.
IV.	First Information Report.
V.	Search list.

LIST OF MATERIAL OBJECTS.

M.Os. 1. Breeches, 2. Pyjama, 3. Skirt.

P. MEDAPA,
Sessions Judge.

True copy.

By Order,

District and Sessions Court,
C. & M. Station, Bangalore.

Registrar.

1033—17-12-1935—20—RPB.

Letter No.172/G dated the 6-2-1936 from the Commissioner of Police, C.& M.Station, Bangalore, to the District Magistrate, C.& M.Station, Bangalore.

I have the honour to forward copy of judgment and statements of witnesses in Sessions case No.8/35 on the file of the Sessions Judge of the station. The charge against the accused was that he committed rape on a child aged seven years named Rahmat Bee on or about 28th July 1935 in Neelasandra within the limits of the Civil and Military Station. The complaint was laid on 1-8-35 at the Shoolay Police Station by P.W.3 a cousin of the child, the father having gone to Nellore on business and the child's other relations were Gosha Mohamadan ladies living by themselves. It was proved in evidence that the accused was a next door neighbour that the child was raped by the accused and infected with gonorrhoea, and that the accused was also suffering from gonorhoea and that the offence was committed on Sunday the 28th July 1935.

In the course of cross-examination in the Sessions trial, P.W.2, a Sub Assistant Surgeon asserted that he examined the child on 1-8-1935, that she must have got the infection 24 to 48 hours prior to his examination, that this was the "lowest minimum of time" and that if the offence had been committed prior to 48 hours there should have been some inflammation. The child is only seven years of age and would not have offered any effective resistance. It is impissoble to see how the absence of inflammation can be taken as evidence that the offence could not have occurred more than 48 hours.prior to the examination. The longer the period that elapsed between the rape and the medical examination the more likely is it that visible signs of inflammation would have disappeared.

However, this extraordinary assertion of the Sub-Assistant Surgeon as to the time of the occurrence was solely responsible for accused's acquittal. The learned judge hesitated between accepting the testimony of the other witnesses or of the Sub Asst. Surgeon. He argued the point with the learned Public Prosecutor and finally made up his mind to accept the medical testimony which

which apparently the Public Prosecutor also accepted.

The case then took a peculiar turn, the issue itself was side-tracked to consider the question whether the court had powers to alter the date of the charge from 28th July to 30th July under Section 225 of the Criminal Procedure Code and convict the accused. Seeing this, the accused's counsel at once took advantage of the situation and asserted that if the date of the offence is altered to 30th July and a fresh charge framed, he had positive evidence to prove an alibi. The learned judge then decided that the alteration of the charge would prejudice the accused in his defence and finally acquitted him.

It is needless to say that a brutal act has gone unpunished. The Judge himself states that the accused "eludes the prosecution and very probably the hands of justice". When the positive assertions of the Prosecution witnesses could not be reconciled with the statement of a Sub Asst. Surgeon, it is not known why the Public Prosecutor or the Court did not call an expert medical witness and learn how far the statements of the Sub Asst. Surgeon stood expert scrutiny. (I would add that the copy of the medical witness's evidence supplied to me is not very intelligible. It appears to be self - contradictory and may not have been clearly understood. He talks of 24 to 48 hours being the "lowest minimum" of time. Does he mean that 24 to 48 hours was the maximum of time that could have elapsed for, he goes on "if it was prior to 48 hours there should have been some inflammation of the parts").

One assessor opined that accused was guilty, the other two that he was not guilty. I have the honour therefore to request that the sanction of Government may kindly be obtained to file an appeal against the order of acquittal under Section 417 of the Criminal Procedure Code

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"C o p y"

M. Ecchappa
21-4-36.

SHERISTADAR, COLLECTOR'S OFFICE.

21.4.

After a lengthy discussion with the Commissioner of Police I feel inclined to think that there is an agreeable case for appeal of the Local Government is of opinion that the appeal should be filed I would suggest the following grounds:

1. The opinion expressed by the Medical witness in the case does not appear to be consistant with the observations made by him on the person of the girl raped.

2. In any event the case is not one in which the medical evidence can be deemed to be conclusive.

3. More importance has been attached to the opinion of the medical witness than it deserves.

4. Since the lower court has held that the accused "eludes prosecution and very probably the hands of Justice" and since the opinion of the doctor cannot be conclusive and the court has held that the oral testimony proves that the offence if any, was committed on the 28th idem a conviction should have followed.

(Sd) C.N.Surya Prakas
18-4-1936

"C o p y"

M. Eeeshappa 21-4-36.
SHERISTADAR, COLLECTOR'S OFFICE.

21.4.

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IN THE COURT OF ~~THE DISTRICT MUNSIFF & FIRST CLASS MAGISTRATE~~ AND SESSIONS JUDGE.

CIVIL AND MILITARY STATION, BANGALORE.

This 13th day of November 1935.

Sessions Case No.8 of 1935

Deposition of Dr.V.E.Jayaram 1st witness for prosecution sworn Solemnly affirmed: Age 33 years, Race Yadava, Religion Hindu Father's name M.V.Ethirajulu Naidu, Resident of Bangalore, Occupation-Sub Assistant Surgeon.

I am a Sub Assistant Surgeon in the Bowring Hospital. The accused was sent to me for medical examination on 1-8-35 by the Sub Inspector of Shoolai Police Station. The requisition is Ex.A-1. The clothes sent along with A1 is marked M.O.1. I examined his penis but found no injuries. He had white discharge from his Urethra. Smears of the ~~develope~~ discharge and of the discharge in M.O.1 for examination. I got the smears examined by the pathologist in our laboratory. The smears contained Ganococois but no ~~strains~~ Spermes This showed that the accused was suffefing from Ganashica. The accused is about 30 years. The certificate I gave is Ex.A.

Cross examination:- I told the accused that I wanted to examine him on account of the requisition Ex.A1. The accused removed his clothes. I did not tell the accused that the result of my examination may go against him. Dr.Sarma examined the smear under the microscope. Dr.Sarma is our pathologist. He sent the result of his examination in writing to me. That writing is not produced. The smears ~~are~~ were sent on a glass slide. I cannot now remember through whom I sent it. I sent a covering letter along with the slide. I did not get any acknowledgement from Sarma ~~and the slip~~ stating that he had received the slide. I cannot say if the slide was received by Sarma as soon as I sent the same. Dr.Sarma sent a report of his examining the slide that I sent that it contained Gonococois. In his report Dr.Sarma stated that the smear contained diplococoi which resembles gonococois But for Dr.Sarma's report I could not definitely say that the accused was suffering from Gonorhea. I might have guessed. I cannot say if the exclusive presence of extracellular gonacocus gives any indication regarding the age of the

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disease. I cannot say how many varities of deplocoi give a negative reaction in gram test. I am not a pathologist. Pus cells are found in every inflamation. Epithereal cells are found in all mucus membranes. The report of the pathologist was received by me on 5-8-35 and on the same date I sent Ex.A. to the Police. I sent the smears to the pathologist on 1-8-35. There are ten beds for venerial disease in our hospital. Many out-patients of ~~genorheal~~ gonococcial cases attend our hospital. I labelled the slide before sending the same. The slide will be washed after examination. I do not get back the ~~side~~ slide.

Re examination:- Gonocius is one variety of deplocation. I did not ~~think~~ speak to Dr.Sarma about this examination at all. The report is in the hospital. I can produce it. The report of Dr. Sarma is Ex.D and E. From the white discharge from Urethrea I could say that the accused was suffering from Gonorhea.

With permission further examined:- I took Ex.D and E from the register in open Court. The register is kept in the ~~Doctor's~~ duty room in hospital. I took it from there. The report is sent to me. I sent the report to the duty room.

Re examination:- Ex.D and E contain my writing. My writing is on the top above my signature. The writing below has been signed by Dr.Sarma.

Sd/ V.E.Jayaram

Taken down by me and read over to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct.

Sd/ P.Medapa
SESSIONS JUDGE.

IN THE COURT OF ~~THE DISTRICT AND~~ SESSIONS JUDGE

CIVIL AND MILITARY STATION, BANGALORE.

This 13th day of November 1935.

Sessions Case No.8 of 1935.

Deposition of Dr.N.Krishnaswamy 2nd witness for prosecution sworn Solemnly affirmed:- Age 45 years, Race Indian, Religion Brahmin, Father's name N.Cheluviengar, Resident of Bowring Hospital, Occupation Sub Assistant Surgeon.

I am a Sub Assistant Surgeon in Bowring Hospital. I ~~examined~~ received the requisition Ex.B4 from Shoolai Station on 1-8-35. The girl was sent to me for examination and later some clothes were sent to me. The clothes were a pyjama and a skirt. They are M.O.2 and M.O.3. The clothes were sent with Ex.A1. I examined the girl in persuance of Ex.B4 and gave the certificate Ex.B. I did not find any marks of external injury. I examined the vulva. There was dirt on both the labia majora which cover the insen to velva. There was mucoid discharge at the vajinal opening. I opened the labia and found dirt there. I took smears of the discharge for microscope examination. The smears were examined by Dr.Sarma. I took the smears from the ~~glos~~ stains ~~stains~~ on M.O.2 and M.O.3 and sent cut pieces of M.O.2 and M.O.3. The report of the pathologist is Ex.F and G and H. The ~~partius~~ portions corresponding to the ~~pessicum~~ was cut from the pyjama and sent. The smears are said to have contained puss cells, epetherial cells and deplococi which resembled ~~morpholigically~~ gronocois. These ~~several~~ cells were also found in the piece of cloth sent by me. No sperms were seen. No cells of any kind were found on the skirt. The girl was about seven years. Discharge of this sort is not to be found in girls of this age. Infection of the part from a discharge of the kind or through fingers will bring ~~out~~ about this sort of a discharge. The girl should have got this infection. This infection could come only from a person having ~~sent~~ such an infection. The ~~cupplicate~~ Certificate I gave are Ex.B1 , B2 and B3. After I sent my report I was questioned further by the Police . My replies to them are seen in B3. B5 is the questions.

Cross examination:- The hymen was in ~~part~~ tact. There was no vajinal penetration in this case. In this case the hymen was 1/8th of an

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inch inside the vajinal olufice. The dirt I noticed must have been some 3 or 4 or 5 days old. Vulvic penetration need not necessorily been removed the dirt. I do not think that vulval penetration would have left any marks on the dirt. In this case considering the age of the accused and the passage size of the male organ I should have seen some marks of injury in the ~~femal~~ genital organs of the child if, ~~the he~~ in fact ~~put them~~ here was a vulval penetration. No ~~sort~~ such injury was seen on the ~~genetal organs~~ genital organs of the child. The girl must have got the infection some 24 to 48 hours prior to my examination. This is the lowest minimum of time, ~~abrasion~~ Absence of inflamatipn of the parts indicate that the infection was shown between 24 to 48 hours prior to my examination. If it was prior to 48 hours there should have been some inflamation of the parts. The only other variety of deplicicois I remember and which is ~~given~~ Gram negative is meningococcus but ~~Ki~~ meningococcus will not be found in the ~~fe~~genital organs. I gave the opinion on 3-8-35 and it was sent to the Police on the same day.

Re examination. The dirt on the vajana was due to the parts not having been washed. I did not examine the male organ of the accused. One Single and feeble act of penetration need not cause injury and even if a slight injury is caused it would subside within 48 hours. This answer will not ~~crudly~~ apply to gonorheal inflamation.

With permission further cross examined:- Even a simple tough of the organ may cause the opening of the lobia but if the penis was actually rubbed or pressed I expect an injury. The child had no sexual ~~instruct~~ instinct and its organs will not respond to sexual impulse. If however the ~~clothes~~ clelories is touched then the child may have a stimulation of the sex instinct or impulse. The ~~clothes~~ clelories cannot be touched without vulval penetration

Sd/ N.Krishnaswamy,
Sub Assistant Surgeon, 13-11-35.

Taken down by me and read over to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct

Sd/ P.Medapa

Sessions Judge.

IN THE COURT OF THE ~~DISTRICT MUNSIFF & FIRST CLASS MAGISTRATE~~ AND SESSIONS JUDGE.

CIVIL AND MILITARY STATION, BANGALORE.

Rhis 13th day of November 1935.

Sessions Case No.8 of 1935.

Deposition of Md.Abdul Rahim 3rd witness for prosecution sworn solemnly affirmed:- Age 25, Race Mussalman, Religion Islam, Father's name Jamadar Mahomed, Resident of Vannarpet, Occupation Unemployed.

I was an attender at the Sapper Bar in 68 Field Battery, ~~Since~~ Mess. I left that job some 6 months ~~ago~~ ago. Abdul Latif is my mother's brother. Rosham Bi is the daughter of Abdul Lathief. I see her in Court (Roshan Bi is called in) Rahimad Bi is the mother ~~and~~ of Roshan Bi. Abdul Lathief is living in Nellore for the last nearly 2 years. His wife and children live in Nilsandra: Abdul Rasheed is one of his children. I see him in Court (Rasheed is called in) I live at a distance of about 3 furlongs from Rhamad Bi. ~~I~~ I go to her house once in two, three or four days. I had been there some three months ago. There I ~~went~~ saw Roshan Bi. It was about 11 a.m. I saw both Roshan Bi and her mother Rhamath Bi ~~lathief~~ sitting and weeping. The child Roshan Bi was holding her trousers in her hand. I cannot now remember the date. It was a Sunday. The mother had taken up the skirt and was about to ~~discuss~~ dress the child with it. I went and asked them why they were weeping. The mother asked me to ask the child. I asked the child. The child said that the accused had taken her inside a room and after lying her down on the ground had rubbed his penis against her private parts. This was shortly before I went. I went to the house of the accused which is ~~only nearing~~ adjoining my uncles house. The accused's house has a door which opens into ours. I ~~asked~~ called the accused from his threshold. The accused had closed his doors and was inside. Rashid had got ~~above~~ upon the roof of the house and he told me that the accused was inside. Rasheed had gone up the house to bring the pegions down. The accused did not open his doors. He did not talk to me. Then I came back to Rhamad Bi's House and on enquiring found that all the people in the accused's house except the accused and his uncle had gone for a wedding. The accused had bolted from inside. I asked Rhamad Bi to send ~~her~~ for her brother and to lodge a complaint before the Police as I had to go away to Dankanikota. I went to Dankanikota that afternoon

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by 2 O'clock bus which starts from the City. I returned on Wednesday at 5 p.m. The next morning I went to Rahamad Bi's house. I asked her if she had complained to the Police, She said that she had not. I then took her to the ~~Choolai~~ Station and got the complaint lodged. I took the child to the hospital. M.O.2 and M.O.3 were also taken to the hospital. I see the complaint, ~~Ex.C~~. It is Ex.C. I do not know how in Ex.A it came to be written that on 30th July I went to Dankanikota. I went on Sunday.

Cross examination:- It was about 7 or 8 a.m. when I went to the Police Station. The Sub Inspector was in the Station. There was also the Station Writer there. I went and complained to the Sub Inspector. The complaint was recorded about 8 or 9 a.m. The complaint was recorded before I went to the hospital. One Police Constable recorded the complaint. I do not know if the complaint was shown to the Sub Inspector. The complaint was read out to me before I signed it. I told the Policeman that the incident was some days prior to my complaint. I did not mention the name of the day. I was not asked for the name of the day and so I did not mention. I know the names of the days in the week. I know that the incident was on Sunday. I did not notice when the complaint was ~~received~~ read out that the name of the day on which the incident took place was mentioned. I simply signed and ~~said~~ raised no objection. I cannot say when the striking s or corrections were made in the F.I.R. Ex.C. I had urgent work at Dankanikotta. My uncles co-brother had to give me Rs.ten and I was in a hurry to get it. I got that money. The bus charges to Dunkanikota ~~tay~~ is 1-4-0. Ibrahim Khan is the name of the man who owed me the money. The money had been taken by him some three months ago. The bus to Dankanikotta starts at 12 noon and not at 2 p.m. Excepting my wife no one else lives with me. Rhamad Bi's mother-in-law lives with her. She is old. She goes out of the house and comes. She goes to ~~shops~~ shops to purchase articles. Rhamad Bi's brother lives in Cantonment about 3 miles from Rhamad Bi's house. Abdul Latif is in Nellore because he has got lands there. He did not come for the funeral of his daughter. He did not come even after the funeral. He has not left Rhamad Bi. He is sending money to her. I am unemployed since the last six months. The Police have launched a proceeding against me for being bound over for good behaviour. Even before this there was a security proceeding against me and others

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which was dropped. It is not true that there was a quarrel or fight between the accused and Rahmad Bi and other on the day of the complaint. I have always said that this incident took place on a Sunday but I did not mention the dates. Abdul Rashid was not ~~drunk~~ present when I called the accused in his house on the day of the occurrence. When I came back to Rhamad Bi's house Abdul Rasheed was not there. It was Abdul Rasheed's mother that told me that the accused was inside his room. Rhamad Bi noticed the accused ~~uncle's~~ inside his house through a ~~road~~ ventilator and informed of the same. Abdul Rashid did not tell me. Abdual Rasheed was not in ~~the~~ the house when I went. Abdul Rashid told his mother that the accused was inside the house and therefore it was that the mother told me that the accused was inside his house.

Re examination:- I had to return a loan and I was being pressed and so I went to Dankanakotty to get back the money due to me.

With permission:- I have not married. I have only kept a woman. On the 4th day I left Dankanikotty. I was paid the 2nd day after ~~my~~ pay. I stayed for a day and the following day I left.

Re examination:- Nil.

Witness states that in his examination-in-chief he did not say that the bus to Dhankanikotty starts at 2 p.m. He also states that Rashid had been to the accused's house in the morning but that he was not in the accused's house when he called the accused.

Sd/ S.Md.Abdul Rahim.

Taken down by me and read over to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct.

Sd/ R.Medapa

Sessions Judge.

IN THE COURT OF THE SESSIONS JUDGE, C & M STATION, BANGALORE.

This 14th day of November 1935.

Sessions Case No.8 of 1935.

Deposition of L.R.Sharma 4th witness for prosecution sworn:-

Age 36,, Race Indian, Religion Hindu, Father's name Pandit Chiranjdlal, Resident of Bangalore, Occupation Pathologist.

I am the pathologist in the Bowring Hospital. In the course of ~~my~~ my duties I received Ex.D and E along with the slides referred to therein. I examined the smears and gave the certificates contained in the exhibits. I saw deplococoi resembling gonococoi in them. I record the objects referred to in Ex.F, G and H i.e., 2 pieces of cloth and a smear. My certificate is contained on the respective exhibits. The objects referred to Ex.F and H contained the same veriety and deplococoi as those noticed in Ex.D and E. If deplococoi resembling gonocoi are found in the urethreal smear then that person is suffering from gonorhea. The smear did contain gonococoi. I say this because ~~however~~ the smear was ~~may~~ taken from the urethrea. In all these smears whereever I have said deplocoi resembling ganarhea found it is to be taken that gancocois were found. I sent back the Exhibits ~~extracts~~ to the doctors who sent them to me.

Cross examination:- I cannot remember if I was present in the laboratory when the smears were received in the office. We keep a register in which we make mention of the slides or other objects sent for our examination. The entries in the register are made as soon as the slide are received in the office. We give a separate number for each specimen for purposes of identification. This number may not find a place in the Register. The numbers are given to the slide when it going to ~~the~~ be examined or stained or handled. The examination may be done as soon as it is recorded ~~received~~ or some time later as the case may be. In these cases I conducted the gram blue test ~~hist~~ with the aid of my assistant. First my assistant took in the microscope ~~microcope~~ and then I did. The laboratory assistant stained ~~stained~~ the slides. Few tests were ~~are~~ conducted (1) gram ~~hist~~ test (2) Methyven blue. The differential stains is gram stain. I did not use semon test. I thought that grams original ~~stains~~ test was the ~~hist.~~ best. Even with grams stains I can easily differentiate between celeplorai and ganocoi. I adopted the original gram test ~~by same stain.~~ I think that

19)

original gram stain gives us canclusive result as any modification of gram stain. I cannot off~~-hand~~ name any treatise ~~in~~ support of ~~my~~ above statement.

Re examination:- The ~~wraphes~~ wrappers of the smears are taken out only when the specimen have to be examined and not before that. When they are ~~noted~~ bottled the numbers are given.

Sd/ L.R.Sharma

Taken down by me and read over to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct

Sd/ E.Medapa

Sessions Judge.

(20

IN THE COURT OF ~~THE DISTRICT &~~ SESSIONS JUDGE, C & M STATION,
BANGALORE.

This 14th day of November 1935.

Sessions Case No.8 of 1935.

Deposition of Rahmath Bee 5th witness for prosecution sworn:-

Age 30 years, Race Mohamedan, Religion Islam, Father's name Subedar Yusuff Sheriff, Resident of Nilsandra, Occupation. Nil.

I live in Nilsandra. The accused lives in the house adjoining mine. Abdul Latif is my husband. He is in Nellore. He had ~~given~~ gone there to ~~see~~ the field. It is 2 years and 3 or 4 months since he went to live in Nellore. There are no adult male members in my house. I have ~~six~~ children now living . Amongst these are Rashid and Roshan Bi one. P.W.3 is the son of my husband's sister. He lives in Vannerpet. He comes to my house once in two or three days. Roshan Bi has completed 6 years and is going on with her 7th year. A little over three months ago Roshan Bi having her breakfast with me. It was about 8 or 9 a.m. My son Roshad had got up the roof of the house to bring the pigions back. The boy Rashid came down and told me that the accused wanted my girl Roshan Bi. I asked Roshan Bi to go to the accused. My boy said that the accused said that my daughter talks ~~briefly~~ briefly and so wanted her. My children ~~was~~ were sometimes going to the house of the accused. We were good neighbours. Roshan Bi came back within 5 minutes. She looked terrified. She was crying saying that the accused did "so and so". She said that she was laid on the ground and her pyjamas were taken off and that the accused after ~~plutting~~ spetting on the private parts rubbed his organ against her parts. I examined the childs persons. The trousers were wet. There was no injury. The child pointed out the manner in which the accused rubbed his organ, against her (witness puts her hand on the bar and rubbs it ~~in~~ i.e. same). I removed the trousers of the child and as no male member was present in the house began to weep saying what to do. About 10 or 11 a.m. P.W.3 came. He asked why I was weeping. I told him what had been done to the child. He asked the child and the child also reported what had been done to her. P.W.3 went out on my request to question the accused. My son had told me that the accused was ~~bolted from inside~~ inside the house. The house was bolted from inside. All the other inmates in the accused's house had gone out for a wedding. I do not know if the accused said anything to P.W.3. P.W.3 said that the accused was inside his house and ~~could~~ would not open the door. P.W.3 said that he had to go to Dnakanikotta and asked me

lodge a complaint ~~in-the~~with the help of my brother to the Police. My brother had quarrelled with me and so I did not ~~said~~ Sent- for him. There ~~were~~ was no one through whom I could ~~said~~ Send for him. I did not lodge the complaint to the Police. M.O.2 and M.O.3 belong to my child. I gave M.O.2 and M.O.3 to P.W.3 and sent my child with him. This was after his return from Dankanikotta. The child was wearing M.O.2 that morning. I made her to put on M.O.3.

Cross examination:- The child had stood up ~~after~~ after finishing her breakfast. She was not playing. There were no other children there. The child began to narrate what had ~~questioned~~ transpired as soon as I asked her what the matter was. She had the ~~trousers~~ trousers on when she came. The tape had been fastened. The child after returning from the house of the accused was with me only until P.W.3 came. She did not go out. The Sub Inspector examined me. I mentioned this to the Police. I do not remember what I stated to the Police. I did not say that my child had gone out and was playing. I told the Police that the child was playing in the courtyard. I cannot now say if I stated that all the children went out. I told the Police that the child came weeping after ten or about 11 a.m. I told the Police that the child said something which I could not understand and after saying that the child ran away out of shame. I told the Police that after some time the child returned and then told me what had happened. I told the Police what that my son had gone up to the top of the roof to fetch pegeons and that after he came down he told me that the accused wanted Roshan Bi as she was talking very sweetly. and that I therefore sent Roshan Bi to the accused. My mother-in-law Sakina Bi, my husband's sister Sheda Bi live in my house. My mother-in-law is very old. She goes to the shops opposite to our house to buy provisions. This month she went to receive her pension in a motor bus. My husband did not come when my child died. I borrowed money from my husband's sister's son-in-law and got the child buried. This loan has not been returned. I told my mother-in-law that very day, what had happened. The Police examined this old woman. There has been no dispute between me and the accused or his people. There was no quarrel on the day of the complaint with the accused or his people. The door which opens from

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house- my house into the house of the accused is always open. It is open even now. It was open at the time of occurrence. A tin sheet is kept at the opening of the door. This is removed when needed. This tin sheet has been in its place for the lost so many years. In the lower Court I stated that this door was closed after the death of my child. The door was closed because the pegeons go and there was trouble. The trouble was of the children in their attempt to catch the pigeons. The accused peled up a heap of stones at the entrance. This was 2 or 3 days after this complaint. My daughter was 13 years old when she died. Even before the Police I said that the accused spat before rubbing his organ. The child said that she had ~~been~~ pain. She said that she complained of pain at the time of ~~the~~ act and she asked accused ~~was asked~~ to get up. Even in the lower Court I stated that the child told me that she had pain. My statement in the lower Court is Ex.I. The child did not tell me that the organ had been thurst in into her private parts. The occurrence was on a Sunday. After 5 days the compdaint was lodged. ~~Otherwise~~ In the ~~Court~~ lower Court I first said that I gave the complaint within two days. Then I stated that the complaint was lodged three days after the occurrence. Later after counting the days I said that I gave the complaint after 5 days.. One Sheik Mahboob keeps a petty shop near my house. That house is separated from mine by 3 other houses. On the day of the complaint the Police went to the house of the accused. The Police seized the clothes of the accused. I do not know who were present then.

Re examination:- My husband sends 5 Rupees a month.

Sd/ Ramath Bee in Hindustani.

Taken down by me and read over to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct.

Sd/ E.Medapa
Sessions Judge.

IN THE COURT OF ~~THE DISTRICT &~~ SESSIONS JUDGE, C & M STATION BANGALORE.

This 14th day of November 1935.

Sessions Case No.8 of 1935.

Deposition of Roshan Bi 6th witness for prosecution ~~sworn~~:-

NOTE:- The witness is very young and is unable to understand questions, much less the significance of the oath. To a question where she is now she says that she is in Cantonment. To a question why she came here she is not able to give a reply. The P.P. and ~~and~~ the defence counsel both state that the witness is unable to understand the question or significance of the oath. The assessors agree. Witness is dispensed with.'

IN THE COURT OF ~~THE DISTRICT &~~ SESSIONS JUDGE, C & M STATION,

BANGALORE.

This 14th day of November 1935

Sessions Case No.8 of 1935.

Deposition of Abdul Rasheed 6th witness for prosecution sworn:-

Age 10 years, Race Mussalman, Religion Islam, Father's name Abdul Lathief, Resident of Nilsandra, Occupation -

P.W. 5 is my mother. Roshan Bi is my sister. The accused lives next door to us. I do not know what happened some 3 months ago in our house. There are pigeons in my house. They came to roost on our roof. I went to bring the pigeons and for that purpose climbed over the loft. The accused called me while I was on the roof. He asked me to send Roshan to him. He said that her talk is sweet. No one was in his house then. He was then standing in his courtyard. I called Roshan Bi and told her that accsed was calling her and asked her to go to him. Roshan Bi went to the accused. I asked Roshan Bi from the top of my house to go to the accused. Roshan Bi went in and then I got down my house. I cannot say what time it was then. It was a Sunday.

Cross examination:- Roshan Bi was then sitting inside her house beside her mother. My mother's brother had left our house long before the occurrence. I told the Police about the accused telling me that Roshan Bi was sweet to listen to.

Re examination:- Nil.

Sd/ Abdul Rasheed

Taken down by me and read over to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct

Sd/ P.Medapa

SESSIONS JUDGE.

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IN THE COURT OF ~~THE DISTRICT &~~ SESSIONS JUDGE, C & M STATION,

BANGALORE.

This 14th day of November 1935.

Sessions Case No.8 of 1935.

Deposition of T.Govindarajuloo 7th witness for prosecution sworn:-

Age 33 years, Race.Indian, Religion Naidu, Father's name T.Kodandaram Naidu, Resident of C & M Station, Bangalore, Occupation Sub Inspector of Police.

I am the Sub Inspector in charge of C1 Station. I investigated this case. I received the complaint Ex.C. It bears my initials. The station writer recorded Ex.C. ~~The~~ I saw Ex.C being recorded from my room. It was brought to me after it was written up. I then initialled it. The alteration was made at my ~~instruction~~ instance by the station writer. The Complaint and the complainant were both produced before me immediately after the ~~received~~ record of the complaint. Then when I questioned the ~~Complainant~~ complainant he said that the occurrence was on a Sunday. He was definite about the day but not the date. Sunday happened to be 28th and so I got the correction made. Ex.C had been signed when I got the alteration made. I do not remember telling the complainant that I got the alteration ~~was~~ made. In the complaint it had been written "~~Sunday~~ Tuesday the 30th July". By an oversight I did not get the subsequent mention of the 30th July in Ex.C altered. I sent the girl to the hospital first with Ex.B-4. The Station writer wrote Ex.B4 under my instructions. Ex.B4 was received in the hospital at 10 a.m. The complint Ex.C was recorded at 9-30 a.m. B1 is the report I got. I also sent Ex.A1 for the examination of the accused on the same day. Along with A-1 I sent the accused and M.O.2 and M.O.3. I also sent M.O.1. The report I got is Ex.A. Ex.A1 was received in the hospital at 1-30 p.m. I sent A1 about 3 hours after seding Ex.B-4. I received Ex.B2 from the doctor. Ex.A1 was sent after B1 was received. The subsequent reports are all in Ex.B series. I arrested the accused the same day before his being sent to the hospital. I saw the house. There is an opening (small) from the accused house to that of the complainant. That opening had been closed when I went to the house. Because I had the ~~answers~~ answers to my questions from the two doctors I did not examine Dr.Sarma.

Cross examination:- The door way had been closed by means of a tin piece. I examined P.W.5. Her statement is Ex.II. She made that statement before me. I examined P.W.6. P.W.6 has not told me that he called out Roshan Bi and asked her to go to the accused who said that her talk was sweet. P.W.6 ~~states~~ statement in Ex.III. I examined Sakina Bi. QUESTION:- Did Sakinabi state that there was a quarrel between the accused and Rhamath Bi P.W.1 on the day of the complaint. objected to by P.P. (Over ruled). ANSWER:- She did not exactly say there was a quarrel. She said that there was a misunderstanding. It was the station writer who recorded Ex.C that brought the complaint and Ex.C to me. They were brought immediately after Ex.C was written. P.W.3 came to me and complained. It was ~~theme~~ that I asked P.W.3 to give the complaint to the station writer and have it recorded. When Ex.C was brought to me I did not question P.W.3 about the day of occurrence being shown as Tuesday instead of Sunday. I got the alteration made without questioning P.W.3 or informing him. The F.I.R. forms was filled up from Ex.C and brought to me. Ex.C and the F.I.R. forms were brought to me together. The complaint was recorded in the book kept for recording noncognizable cases as the constable had doubts. The station writer does not record the F.I.R. in non-cognizable cases. The F.I.R. in this case is Ex.IV.

Re examination:- Sakina Bi told me from the information she knew ~~she received~~ from the accused that there was misunderstanding between the accused and P.W.5.

Sd/.Govindarajulu, S.I.
14-4-35.

Taken down by me and read over to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct.

Sd/ P.Medapa
Sessions Judge.

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IN THE COURT OF ~~THE DISTRICT MUNSIF & FIRST CLASS MAGISTRATE~~ & SESSIONS JUDGE.

CIVIL AND MILITARY STATION, BANGALORE.

This 14th day of November 1935.

SESSIONS CASE No.8 of 1935.

Deposition of Bagwan a Balaram 8th witness for prosecution sworn:-

Age 16 years, Race Religion Indian Hindu, Father's name Mahadev, Resident of Nilsandra, Occupation Milkman.

Tendered
~~Reserved~~ for examination.

Cross examination:- Nil.

L.T.M. of Bagwan taken down by
D.Muthukrishnan.

Taken down by me and interpreted to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct.

Sd/ P.Medapa
Sessions Judge.

IN THE COURT OF ~~THE DISTRICT &~~ SESSIONS JUDGE, C & M STATION,

BANGALORE.

This 14th day of November 1935.

Sessions Case No.8 of 1935.

Deposition of Shaik Mahboob 1st witness for defence sworn:-

Age about 30 years, Race Musalman, Religion Islam, Father's name Shaik Masthan, Resident of Nilsandra, Occupation Petty shop keeper.

I know the accused also P.W.3 and P.W.5. I live at a distance of 10 yards from the houses of P.W.3, P.W.5 and the accused. I have a petty shop in my house. On 1-8-35 the Police had come to Nilsandra to the house of the accused. The Police wanted me to sign a mahazar for the seizure of the breaches M.O.1. I asked the Police why they seize M.O.1 or why they wanted me to sign. Then I was told that the seizure was in connection with the investigation of an offence committed by the accused against Roshan Bi on 30-7-35. I signed the mahazar. It is Ex.V. I have signed the same. I, Abdul Gani, Kasim Khan, Sam and 4 or 5 others were present. We then talked amongst ourselves that the accused had gone for work on 30-7-35 and he cannot therefore have committed the offence. On 1-8-35 there was an altercation between the accused's mother and P.W.5.

Cross examination:- On 30-7-35 I saw the accused going for work at 6 a.m. He returned about 9 or 10 a.m. for his breakfast. I remember well that the accused went for work that day. ~~I had the~~ I heard the noise of the altercation between the accused's mother and P.W.5 on 1-8-35. The neighbours also heard this altercation. There were only the inmates of P.W.5's house and the accused's house then. There were no one else. No outsiders were present. It is not true that I am instructing the defence counsel. I talked to the defence counsel yesterday and today. I brought his books but I did not instruct him.

Re examination:- Nil.

Sd/ Shaik Mahboob.

Taken down by me and read over to the witness in the presence of the accused and accused's Pleader and admitted by the witness to be correct.

Sd/ R.Medapa

SESSIONS JUDGE.

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IN THE COURT OF ~~THE DISTRICT &~~ SESSIONS JUDGE, C & M STATION,
BANGALORE.

Complainant.	Vs.	Accused.
King Emperor.		Gulam Dastagir.

SESSIONS CASE No.8 of 1935.

Name of accused Gulam Dastagir, Age about 25 years, Race Musalman, Religion Islam, Father's name Gulam Ahmed, Resident of Nyasandra, Occupation Syce.

QUESTION:- You heard the evidence against you what have you to say?

ANSWER:- I am filing my statement.

QUESTION:- Have you any defence witnesses?

ANSWER:- Yes. Sheik Mahboob.

Sd/ Gulam Dastagir.

Certified that the foregoing examination was taken in my presence and hearing and the record contains a true and full account of the statement made by the accused.

Sd/ P.Medapa
SESSIONS JUDGE.

Accused abovenamed begs to state as follows:-

He has nothing to add to ~~what~~ what he has stated in the lower court. He prays that he may be acquitted.

Sd/ Gulam Dastagir.

Bangalore
14-11-35.

Sessions Case No. 8/35

Deposition of Dr. N. Krisnaswamy.

I am a Sub Assistant Surgeon in the Bowring Hospital. I received the requisition Ex.B/4 from Shoolay Station on 1/8/35.

The girl was sent to me for examination and later some clothes were sent to me. The clothes were a Pyjama and a skirt. They are Mo2 and Mo3. The clothes were sent with ExA/1.

I examined the girl in pursuance of ~~Ex~~ Ex B/4 and gave the certificate ExB. I did not find any marks of external injury. I examined the vulva. There was dirt on both the labia majora which cover the entrance to vulva. There was mucoid discharge at the vaginal opening.

I opened the labia and found dirt there. I took semons of the discharge for ~~microspic~~ microscopic examination. The semons were examined by Dr.Sarma. I took the semons from the glasses in Mo2 and Mo3 and sent cut pieces of Mo2 and Mo3. The report of the ~~pathiyelogist~~ Pathologist is ExF and G and H.

The portions corresponding to the perenium was cut from the pyjama and sent.

The semons are said to have contained pus cells, epithehal cells and diplocoi which resembled mostly gonococis. These several cells were also found in the piece of cloth sent by me. No sperms were seen. No cells of any kind were found on the skirt.

The girl was about seven years. Discharge of this sort is not to be found in girls of this age.

Inspection of the part from a discharge of the kind or through fingers will prey about this sort of a discharge. The girl should have got this infection. This infection could come only from a person having such an infection.

The cut pieces I gave are Ex B/1, B/2 and B/3 After I sent my report I was questioned from there by the police. My replies to him are seen in Ex B/3.and B/5 is the questions.

X Exn. The Hymen was in tact. There was no vaginal penetration in this case. In this case the Hymen was 1/8th of an inch inside the vaginal orajice.

The dirt I noticed must have been some 3 or 4 or 5 days old Vulvic penetration need not necessarily been removed the dirt. I do not think that vulvic penetration would have left any marks on the dirt.

In this case considering the age of the girl accused and the possible size of the male organ I should have seen some marks of injury in the genetal organ of the child if in fact there was a vulval penetration. No such injury was seen in the genetal organs of the child.

The girl must have got the infection some 24 to 48 hours prior to my examination. This is the lowest minimun of time. Absence of inflamation on the parts indicate that the infection was given between 24 to 48 hours prior to my examination. If it was prior to 48 hours, there should have been some inflamation of the parts.

The only varacity of Deplococus I remember and which is gram negative is menigococcus but this menigococcus will not be found in the genetal organs. I gave the opinion on 3/8/35 and it was sent to the police on the same day.

Re:Exn. The dirt on the virjina was due to the parts not having been washed.

I did not examine the male organ of the accused.

One single and gentle act of penetration need not cause injury and even if a slight injury is caused it would sub-

subside within 48 hours. This answer will not apply to gonoreal inflamation with phenomin. Further examined. Even a gentle touch of the organ may cause the opening of the labia but if the penis was actually rubbed or pressed I expect an injury.

The child had no sennuel instinct and its organs will not respond to sectual impulse. If however the clitoris is touched then the child may have a stimulation of the sex instrument or impulse. The cleveris cannot be touched without vulval penetration.

Sd. N. Krishnaswamy.
13-11-35.

S.IV.2

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PROCEEDINGS OF THE HON'BLE THE RESIDENT IN MYSORE.

NO. 709-36 / Ro.1 Dated, Bangalore 21st May 1936.

Read:- Letter No.481-C-36, dated 20th April 1936, from the District Magistrate, Civil and Military Station, Bangalore.

Order.

Under section 417 of the Code of Criminal Procedure, V of 1898, as applied to the Civil and Military Station of Bangalore, the Hon'ble the Resident is pleased to direct the Public Prosecutor of the Station to present an appeal to the Court of the Resident in Mysore against the order of acquittal passed by the Sessions Judge, Civil and Military Station, Bangalore, in Sessions Case No. 8 of 1935* on his file.

for Secretary to the Resident.

The District Magistrate, Civil and Military Station, Bangalore.

*King Emperor v. Gulam Dastagir.

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DEPARTMENT.

BRANCH.

File No.

Serial No.

Issue. A.S.Rao 25/6.

Issued mp 30-6.

Draft Letter / Memorandum / Telegram

Class for telegrams

Ordinary / Express / Urgent* / Priority / Clear Line†

*Only for Foreign Telegrams.

†Not for Foreign Telegrams.

No. F.709/36 R.O.I Dated 30th June 1936

To be issued on

Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading :

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

To

The District Magistrate,
C. & M. Station, Bangalore.

Subject:- Appeal against acquittal,

(Code word for telegrams)

Sir,

x S.N.2 (S)
Cor. p. 33
F. 709-36

With reference to endorsement from this Residency forwarding copy of Proceedings of the Hon'ble the Resident No.709-36/R.O.I dated 21st May 1936, I am directed to point out that although Article 157 of the first schedule to the Limitation Act allows six months, an appeal against acquittal should in practice be preferred with all possible expedition. In this connection I am to invite your attention to the instructions of the Government of India on this subject forwarded with endorsement from this Residency No.94 dated 24th September 1918.

Act IX of 1908. (Not put up)

xx S.N.2 (R)
Cor. p. 4
Court File 4-1918

I have etc.,

Cone 25/6

[for] Secretary to Resident

A.S.Rao 22.6.'36

S. 5.
MGIPC—S1—165(Genl)MFP—(M-1033)—3-5-34—50,000 Pads.

B. G. KOSAL RAM, B. A., B. L.,
ADVOCATE.

S N 4
In 8d
a/t

C35

6, LUBBAY MUSJEED STREET,

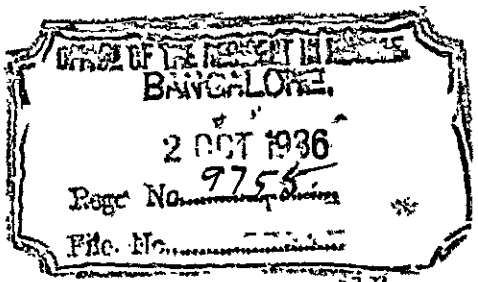
Bangalore, 1st October 36.

To

The Secretary to

The Hon'ble the British Resident,

Bangalore.



Sir,

I have the honour to enclose herewith a petition under Sec. 401 Cr.P.C. on behalf of a client of mine for the merciful consideration of the Local Government.

I beg to remain,

Sir,

Your Obedient Servant,

B.G. Kosal Ram

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Before the Hon'ble British Resident
in Mysore.

Petitioner:- Gulam Dastigir of Neelasandra,
C/o E.Stn. Bangalore.

Convicted in Criminal appeal 7/1936 on the file of the Hon'ble the British Resident Bangalore

The humble petition of the above named petitioner showeth:-

1. He was arrested by the Station Police on 1-8-1935 and was charge sheeted before the Munsiff Magistrate who committed him to Sessions on 25th.September 1935.

2. The learned Sessions Judge acquitted him on 18th. November 1935 and between his arrest and acquital Your humble petitioner was in District Lock, his two bail petitions having been refused.

3. The Local Government prefered an appeal against his acquital on 15th.June 1936 in which he has been convicted for five years rigrous imprisionment for - " attempt to commit rape" on 22th.August 1936 by the learned additional Judge of the Court of the Hon'ble the Resident in Mysore,Bangalore . The copy of the judgement is herewith filed.

4. Your humble petitioner submits that the sentence is too severe, and the alledged act does not merit it. There were no injuries to the Genitals of the Victim, even though there was no-body to disturb.

5. Further Your humble petitioner begs to submit that since he has been in custody in the District Lock for a period of three months and seven days during trial,

37)

and since he was enjoying the security of acquital for more than six months the period fixed for appeal, a sentence of five years is too much for the offence for which he is convicted.

6. Hence he respectfully prays that either whole or good portion of his sentence may be remitted.

Bangalore, D/ 28-9-1936.

Gulam pr No 9976.
S/o Dastigir Saheb.in Urdu).
Petitioner.

Signed before me
Chief Jailor
B.C.Jail
28/9/36

S. N. 5

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Issue. AsRao 17/x

Issued MP 20/10.

DEPARTMENT.

BRANCH.

File No.

Serial No.

Draft Letter / ~~Memorandum~~ / ~~Telegram~~

Class for telegrams — Ordinary / Express / Urgent* / Priority / Clear Line†

*Only for Foreign Telegrams.

†Not for Foreign Telegrams.

No F.709-36 R.O.I Dated 20th October 1936

To be issued on

Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading :

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

(Code word for telegrams)

* P.u.e

S N. 4.

To

B.G.Kosal Ram, Esq.B.A.,B.L.,
Advocate, No.6 Lubbay Mus-
jeed Street, Bangalore,

Subject:- Remission of sen-
tence awarded to Gulam Dasta-
gir,

With reference to his letter dated 1st October 1936, enclosing a petition from Gulam Dastagir, Mr.B.G. Kosal Ram is informed that the Hon'ble the Resident sees no reason to grant a remission of the sentence awarded by the Court of the Hon'ble the Resident in Mysore in Criminal Appeal No. 7 of 1936.

The enclosure to the petition is returned.

Usne 17/10.

Secretary to the Resident.

Usne 14/10

AsRao 12.x.1936

S. 5.
MGIPC—S1—158(Genl)MFP—(M-1937)—3-5-34—50,000 Pads.